

Robert J. Bonsignore (BBO # 547880)
BONSIGNORE & BREWER
23 Forest Street
Medford, MA 02155
Telephone: (781) 350-0000
Facsimile: (781) 391-9496
Email: rbonsignore@classactions.us
Co-Lead Counsel for Plaintiffs

Other signatories appear below

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA**

IN RE WAL-MART WAGE AND HOUR
EMPLOYMENT PRACTICE LITIGATION

MDL 1735

2:06-CV-00225-PMP-PAL
(BASE FILE)

THIS DOCUMENT RELATES TO:

ALL ACTIONS EXCEPT KING v.

WAL-MART STORES, INC., CASE NO.

07-1486-WY

**PLAINTIFFS' MOTION FOR APPEAL BOND
FOR OBJECTOR JESSICA GAONA**

**TO ALL PARTIES, OBJECTOR JESSICA GAONA AND THEIR ATTORNEYS OF
RECORD:**

PLEASE TAKE NOTICE that Co-Lead Counsel Robert Bonsignore together with the undersigned counsels hereby do move and submit this Motion for the Court to hold a hearing on a date to be set by the Court to determine the amount of the appeal bond to be posted by Objector Jessica Gaona and her attorney and/or to act as otherwise deemed reasonable and just. Plaintiffs in this consolidated MDL 1735 case, with the exception of *King v. Wal-Mart Stores, et al.*, Case No. 07-1486-WY¹, hereby move this Court to require Objector Jessica Gaona to post a bond in the amount of \$608,342.62. Plaintiffs advance this Motion pursuant to Rule 7 of the Federal Rules of Appellate Procedure, 28 U.S.C. § 1961, Rule 39(e) of the Federal Rules of Appellate Procedure, Rule 39(c) of the Federal Rules of Appellate Procedure and the District Court's inherent power to require posting of an appeal bond for an Order.

In further support of this Motion are the following grounds more fully addressed in the accompanying memorandum: 1) Objector Gaona submitted no financial information to indicate she is financially unable to post a bond despite the opportunity to provide the Court with this information; 2) Objector Gaona is not a resident in a Ninth Circuit state and this factor is recognized as presenting significant difficulties in collecting Appellate Costs if the appeal is dismissed or otherwise unsuccessful; 3) there is no guarantee that Objector Gaona's appeal will not fail (Plaintiffs believe the appeal to be unsupported and otherwise meritless and in any event not likely to succeed); 4) the structure of the settlement is well accepted; 5) the procedural

¹ Counsel for Nancy Hall has not responded to a request to join in this request but at the same time has not indicated that he opposes it.

1 requirements to make objections as outlined in the Settlement were carefully evaluated by class
2 counsel, class action as well as class administration experts, were scrutinized and considered to
3 be fair and just by the Court, approved in both the Preliminary and Final Approval Orders, and
4 were not so overly burdensome or otherwise so onerous that reversal of the Order on Final
5 Approval is warranted; 6) likewise, class notice was on multiple layers carefully scrutinized to
6 insure that it met all statutory requirements and was Court approved by the Court after careful
7 consideration in both its Preliminary Approval and Final Approval Orders; 7) after extensive
8 review and consideration by this Court, the Settlement was found fair, adequate and reasonable
9 and meets the statutory requirements and was supported by extensive findings that followed the
10 guidelines articulated in the related appellate authority; 8) Objector Gaona failed to file a claim
11 and therefore lacks standing to appeal attorney's fees under well established constitutional law
12 and otherwise fails to set forth any facts in support or reasonable basis to challenge the extensive
13 and specific findings of this Court in making the award.
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17 This Motion is based on the accompanying documents attached hereto:
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19 I. Plaintiffs' Memorandum in Support of Plaintiffs' Motion for Appeal Bond
20 for Objector Gaona.
21

22 Attachments Include:
23

24 A. Declaration of Not Found, Due and Diligent Search by Tim Shultz.
25

26 B. Subpoena to Testify at a Deposition in a Civil Action to Jessica
27 Lynn Gaona.
28

1 II. Declaration of Robert Bonsignore in Support of Plaintiffs' Motion for
2 Appeal Bond for Objector Gaona.

3
4 Attachments Include:

- 5
6 A. 1. Dismissal of Appeal dated 10/26/09
7 2. Order and Final Judgment Approving Settlement 8/21/09
8
9 B. 1. Order of South Carolina Court of Appeals 11/20/09
10 2. Notice of Objection to Class Settlement, 5/1/09
11
12 C. 1. Online docket of MO Appeal case No. WD71180
13 2. Mandate from MO Court of Appeals, 11/12/09
14
15 D. 10/5/09 Gaona Deposition Notice
16
17 E. 10/6/09 Gaona Deposition Notice
18
19 F. 10/19/09 Gaona Deposition Notice
20
21 G. Declaration of Tim Shultz
22
23 H. Subpoena to Jessica Lynn Gaona
24
25 I. Exceptional Reporting Services, Inc. Transcript Invoice
26
27 J. Professional Civil Process Invoice
28
K. Litigation Document Production, Inc. estimate

III. Declaration of John O. Ward, Ph.D.

IV. Declaration of Wendy Cole Lascher, Esq.

V. Declaration of Amanda J. Myette Relating to Additional Administrative Costs During Appeal.

Plaintiffs respectfully request that this Court hold a hearing on a date to be set by the Court to determine the amount of the appeal bond to be posted by Objector Jessica Gaona and her attorney and/or to otherwise act in a just and reasonable way.

Dated: December 21, 2009

Respectfully submitted:

By: s/ Robert J. Bonsignore
Robert J. Bonsignore (BBO # 547880)
BONSIGNORE & BREWER
23 Forest Street
Medford, MA 02155
Telephone: (781) 350-0000
rbonsignore@class-actions.us

Daniel D. Ambrose, Esq.
Ambrose Law Group
1007 East West Maple Road
Walled Lake, MI 48390
(248) 624-5500

Craig O. Asbill, Esq.
Charles G. Monnett & Associates
200 Queens Road
Suite 300
Charlotte, NC 28204
(704) 376-1911

Franklin D. Azar, Esq.
Rodney P. Bridgers, Jr., Esq.
Nathan J. Axvig, Esq.
Franklin D. Azar & Associates P.C.
14426 East Evans Ave.
Aurora, CO 80014
(303) 757-3300

Richard Batesky, Esq.
Attorney at Law
22 E. Washington St., Suite 610
Indianapolis, IN 46204
(800) 822-2039

Robin E. Brewer, Esq.
Nicole Vamosi, Esq.

Mark C. Choate, Esq.
Choate Law Firm LLC

1 Kelly Elam, Esq.
2 Rick Kirchner, Esq.
3 Julie Baker, Esq.
4 Bonsignore & Brewer
5 23 Forest Street
6 Medford, MA 02155
7 (781) 350-0000

424 N. Franklin Street
Juneau, AK 99801
(907) 586-4490

6 Todd S. Collins, Esq.
7 Berger & Montague, P.C.
8 1622 Locust Street
9 Philadelphia, PA 19103
(800) 424-6690

Adriana Contartese, Esq.
Rafaela Hanley, Esq.
Attorney at Law
866 East Fifth St.
Boston, MA 02127
(617) 268-3557

10 Lanny H. Darr
11 Schrempf, Kelly, Knapp & Darr, Ltd.
12 307 Henry St.
13 Suite 415
14 Alton, IL 62002
15 (618) 465-2311

Paul C. EchoHawk, Esq.
Nathan Long, Esq.
EchoHawk Law Offices
Paul C. EchoHawk
505 Pershing Avenue
Pocatello, ID 83205
(208) 478-1624

16 R. Deryl Edwards, Jr., Esq.
17 606 S. Pearl Ave.
18 Joplin, MO 64801
19 (417) 624-1962

Ivy L. Frignoca, Esq.
Lambert Coffin Haenn
477 Congress St, 14th Fl
Portland, ME 04112
(207) 874-4000

19 Courtney French, Esq.
20 Fuston, Petway & French, LLP
21 3500 Colonnade Parkway
22 Suite 300
23 Birmingham, AL 35243
24 (205) 977-9798

Troy N. Giatras, Esq.
The Giatras Law Firm, PLLC
118 Capitol Street
Suite 800
Charleston, WV 25301
(304) 343-2900

23 Christopher R. Gilreath, Esq.
24 Gilreath & Associates
25 550 Main Street
26 Suite 600
27 Knoxville, TN 37902
28 (865) 637-2442

Vincent J. Glorioso, III, Esq.
The Glorioso Law Firm
815 Baronne Street
New Orleans, LA 70113
(504) 569-9999

Donald S. Goldbloom, Esq.
12590 National Pike

Gregory F. Greiner, Esq.
Greiner Law Office

Grantsville, MD 21536
(301) 895-5240

630 G Ave.
Grundy Center, IA 50638
(319) 824-6951

J. Thomas Henretta, Esq.
Law Offices of J. Thomas Henretta
400 Key Building
159 South Main Street
Akron, OH 44308
(330) 376-7801

Thomas H. Johnson, Esq.
Thomas H. Johnson Law Office
410 Hickory St.
Texarkana, AR 71854
(870) 773-6359

Christopher Meeks, Esq.
Lynch, Meeks & Battitori
1031 Military Avenue
Baxter Springs, KS
(620) 856-2771

Mike Miller, Esq.
Stacey E. Tjon, Esq.
Solberg, Stewart, Miller & Tjon
1129 Fifth Avenue South
Fargo, ND 58103
(701) 237-3166

Pamela Mullis, Esq.
The Mullis Law Firm
1229 Elmwood Ave
Columbia, SC 29201
(803) 799-9577

Glen W. Neeley, Esq.
Attorney at Law, P.C.
863 25th St.
Ogden, UT 84001
(801) 612-1511

Gary S. Nitsche, Esq.
Weik, Nitsche, Dougherty
1300 N. Grant Ave, Suite 101
Wilmington, DE 19899
(302) 655-4040

D. Michael Noonan, Esq.
Shaheen & Gordon, P.A.
140 Washington Street
P.O. Box 977
Dover, NH 03821
(603) 749-5000

Raymond A. Pacia, Esq.
Attorney At Law, LTD
50 Power Road
Pawtucket, RI 02860
(401) 727-2242

Jeffrey M. Padwa, Esq.
Padwa Law
303 Jefferson Blvd.
Warwick, RI 02888
(401) 921-4800

Arthur Y. Park, Esq.
Laurent J. Remillard, Jr., Esq.
John C. McLaren, Esq.
Park Park & Remillard
707 Richards Street
Suite 500
Honolulu, HI 96813
(808) 536-3905

Wayne D. Parsons, Esq.
Wayne D. Parsons Law Offices
Dillingham Business Center
Suite 201C
1406 Colburn Street
Honolulu, HI 96817
(808) 845-2211

1 John Rausch, Esq.
2 P.O. Box 905
3 Waterloo, IA 50704
4 (319) 233-3557

Dan Rausher, Esq.
Attorney at Law
26 Court Street
Suite 1604
Brooklyn, New York 11242
(718) 596-7333

5 Thomas R. Ricci, Esq.
6 Law Office of Thomas R. Ricci
7 303 Jefferson Blvd.
8 Warwick, RI 02888
(401) 921-4800

Dirk A. Ravenholt, Esq.
Ravenholt & Associates
2013 Alta Drive
Las Vegas, NV 89106

9 Fred Schultz, Esq.
10 Greene & Schultz
11 Showers Plaza
12 320 W. 8th Street
13 Suite 100
14 Bloomington, IN 47404
15 (812) 336-4357

Cynthia K. Smith, Esq.
Jasper Smith Olson, P.C.
202 W. Spruce St.
P.O. Box 7785
Missoula, MT 59807
(406) 541-7177

14 Stephen M. Smith, Esq.
15 Joseph Smith Ltd.
16 2100 Kecoughtan Road
17 Hampton, VA 23661-0437
18 (757) 244- 7000

Laurence W. Stinson, Esq.
Bradley D. Bonner, Esq.
Bonner Stinson, P.C.
P.O. Box 799
128 East Second Street
Powell, WY 82435
(307) 754-4950

19 Mark Tate, Esq.
20 Tate Law Group, LLC
21 2 East Bryan Street
22 Suite 600
23 Savannah, GA 31401
24 (912) 234-3030

Jill P. Telfer, Esq.
Law Offices of Jill P. Telfer
331 J. Street, Ste. 200
Sacramento, CA 95814
(916) 446-1916

23 Matthew Tobin, Esq.
24 201 S. Phillips Avenue
25 Suite 200
26 Sioux Falls, SD 57104
27 605-366-9715

Jay A. Urban, Esq.
Urban & Taylor S.C.
4701 North Port Washington Road
Milwaukee, WI 53212
(414) 906-1700

27 Ernest Warren, Jr., Esq.
28 Walker Warren & Watkins
838 SW First Avenue
Suite 500

Christopher P. Welsh, Esq.
James R. Welsh, Esq.
Welsh & Welsh, P.C. L.L.O.
9290 West Dodge Road

1 Portland, OR 97204
2 (503) 228-6655

100 The Mark
Omaha, Nebraska, 68114
(402) 384-8160

CERTIFICATE OF SERVICE

I hereby certify that on December 21, 2009, a copy of the foregoing *Plaintiffs' Motion for Appeal Bond for Objector Jessica Gaona* was filed electronically [and served by mail on anyone unable to accept electronic filing]. Notice of this filing will be sent by e-mail to all parties by operation of the Court's electronic filing system [or by mail to anyone unable to accept electronic filing]. Parties may access this filing through the Court's system.

/s/ Robert J. Bonsignore
Robert J. Bonsignore